IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO. 63/2000

1. Smt. Maria Exaltacao Vaz alias
Elasao Vaz, major, H.No.29,

2. Shri Rosario Oliveira,
major, both r/o. House No. 29,
Ilha de Rachol, Salcete,

3. Shri Cajetan Oliveira (Goa Baker),
Santemol, Raia, Salcete, Goa. ..... Appellants.

Vs/.

1. Smt. Sushila S. Borkar, major,

2. Smt. Nila S. Borkar, major,

3. Kum. Shubha S. Borkar, major,

4. Shri Devidas S. Borkar, major,
r/o. House No.335,
Sharma Safalya Fatorda, Margao.

5. Ubaldino Oliveira, major, s/o. Late
Santano Oliveira, H.No.40,
Ilha de Rachol, Salcete, Goa.

6. Smt. Filomena O. Gomes,
major, d/o. Late Santano Oliveira,
r/o. House No.190, Ilhas de
Rachol, Salcete, Goa.

7. Shri Ramdas Borkar, major,
r/o. Santemol Raia Goa,
near Fish Market Tito. ..... Respondents.

Mr. Y. V. Nadkarni, Advocate for the appellants.

Mrs. A. A. Agni, and Mr. M. S. Prabhu Dessai, Advocate for the respondents No.1 to 4.

CORAM P.V. KAKADE, J.

DATE : 23RD NOVEMBER, 2006.

ORAL JUDGMENT :

Heard learned Counsel for both the parties. The appellants-defendants have preferred this appeal against the Order dated 26th September, 2000 passed by the Civil Judge, Senior Division, Margao whereby the application filed by the respondents-plaintiffs is allowed in terms of prayers clauses (a), (b) and (c) of the application.

2. In the course of the hearing of the matter, it was pointed out that the order passed by the trial Court was stayed by this Court while admitting the appeal from order and the said order is in operation for the last about six years. Moreover, the trial of the suit has already commenced in the trial Court. Therefore, in my view, no purpose would be served in adjudicating this matter in appeal when the suit itself is about to be disposed of on merits.

3. It was also pointed out that there is one more application

pending between the parties in the Court of Civil Judge, Sr. Division, Margao (CMA No.6/05/A in Special Exe. Appln. No.19/90/A). Hence, it is hereby directed that the trial Judge shall adjudicate the dispute as expeditiously as possible so as to complete the adjudication of the suit on merits, after giving opportunity to both the sides to lead evidence and shall also take simultaneously the said application (CMA No.6/05/A in Special Exe. Appln. No.19/90/A) so as to complete the entire adjudication within the period of one year from the date of receipt of writ of this Court. In the meantime, pending the trial, the parties are directed to maintain status quo as regards the suit premises as well as the business of bar and restaurant and that the appellants shall not create any third party interest. With this direction, the appeal stands disposed of with no order as to costs.

P.V. KAKAKDE, J.

ssm.